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19 UNITED STATES DISTRICT COURT
 20 CENTRAL DISTRICT OF CALIFORNIA
 21 WESTERN DIVISION

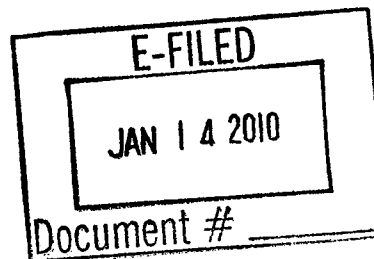
22 UNITED STATES OF AMERICA AND)
 THE STATE OF CALIFORNIA)

23 Plaintiffs,)

24 v.)

25 INTERCARE HEALTH SYSTEMS, INC,)
 26 a California corporation,)
 formerly d.b.a. CITY OF ANGELS)
 27 MEDICAL CENTER; ROBERT BOURSEAU;)
 and RUDRA SABARATNAM)

28 Defendants.)



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 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

LODGED

Case No. CV
CV10 0232 PSG (SSx)
 CONSENT JUDGMENT AND
 [PROPOSED] ORDER

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10 **CONSENT JUDGMENT**

11 IT IS HEREBY ORDERED, ADJUDGED and DECREED, pursuant to and in
12 accordance with the Stipulation for Entry of Consent Judgment
13 entered into by and between plaintiff the United States of America,
14 acting on behalf of its agency, the United States Department of
15 Health and Human Services, and plaintiff the State of California
16 (collectively "plaintiffs"), and defendants Robert Bourseau and Dr.
17 S. Rudra Sabaratnam (collectively "defendants") (plaintiffs and
18 defendants are collectively referred to as "the parties"), as
19 follows:

20 **Findings**

21 1. The Court has subject matter jurisdiction over this action
22 pursuant to 31 U.S.C. § 3730(a) and (b) and 28 U.S.C. §§ 1331 and
23 1345. Jurisdiction over all state law claims alleged in this
24 action is proper under 31 U.S.C. § 3732(b). This Court has
25 supplemental jurisdiction over all state law claims under 28 U.S.C.
26 § 1367.
27
28

1 2. Defendants have acknowledged and accepted service of the
2 Summons and Complaint. The Court has personal jurisdiction over
3 defendants.

4 3. Venue is proper in this District pursuant to 31 U.S.C. §
5 3732(a) and 28 U.S.C. § 1391(b), because defendants are located and
6 transact business in this District, and a substantial part of the
7 events giving rise to the claims brought in this action occurred in
8 this District.

9 The Parties

10 4. Intercare Health Systems, Inc. ("Intercare") is a
11 California corporation that, from 2004 through November 18, 2008,
12 owned and operated a for-profit acute care hospital in the City of
13 Los Angeles known as the City of Angels Medical Center ("City of
14 Angels"). City of Angels was at all times relevant hereto a
15 participating hospital in the Medicare and Medi-Cal programs.
16 Intercare's Medicare provider number, at all times relevant hereto,
17 was 05-0725. Intercare's Medi-Cal provider number, at all times
18 relevant hereto, was HSC30725F.

19 5. Defendant Robert Bourseau ("Bourseau") is a resident of
20 the State of California. At all times relevant hereto, the 50%
21 shareholder of Defendant Intercare was the G & B Trust and/or the
22 Gladys Bourseau Living Trust ("GBLT"), and Bourseau was an officer
23 and director of Intercare.

24 6. Defendant Dr. S. Rudra Sabaratnam ("Sabaratnam") is a
25 resident of the State of California. Sabaratnam was a licensed
26 physician and a managing officer at all times relevant hereto, and
27 from 2004 to June 14, 2007, was the Chief Executive Officer, and
28

1 one of the two owners through Secured Equity Partners, L.P., of Intericare.

2 7. On December 12, 2008, Sabaratnam pled guilty to two counts
3 of Payment of Illegal Remuneration for Patient Referrals (42 U.S.C.
4 § 1320a-7b(b)(2)(A)) (the Anti-Kickback Statute) in connection with
5 the conduct described herein. (U.S.D.C.-C.D. CA Case No. CR-08-
6 00904.)

7 8. On June 16, 2009, Bourseau pled guilty to two counts of
8 Payment of Illegal Remuneration for Patient Referrals (42 U.S.C. §
9 1320a-7b(b)(2)(A)) (the Anti-Kickback Statute) in connection with the
10 conduct described herein. (U.S.D.C.- C.D. CA Case No. CR-09-00087.)

11 The Kickback Scheme

12 9. Beginning on or about August 20, 2004, and continuing to
13 approximately June 14, 2007, defendants engaged in a scheme to
14 increase inpatient admissions to City of Angels by paying patient
15 recruiters Estill Mitts ("Mitts") and Richard Massey
16 ("Massey") (collectively "the recruiters") to induce them to refer
17 Medicare and Medi-Cal beneficiaries whom they recruited, primarily
18 from the Skid Row area of downtown Los Angeles, to City of Angels for
19 inpatient hospital stays. Defendants paid the recruiters, or caused
20 to be paid to them, approximately \$500 for each Medicare-referred
21 patient admitted to the hospital and approximately \$300 for each Medi
22 Cal-referred patient admitted to the hospital.

23 10. At all relevant times, Bourseau and Sabaratnam knew that it
24 was illegal to pay kickbacks for the referral of patients for health
25 services that may be paid for by Medicare or Medi-Cal.

26 Defendants' Dealings With Mitts and Massey

27 11. As part of the scheme, on or about August 20, 2004,
28 Sabaratnam, as CEO of City of Angels, executed a "Consulting Services

1 Contract" between City of Angels and Metropolitan Healthcare LLC
2 ("Metropolitan"), a company owned and controlled by Mitts. Mitts'
3 company later became known as Wilshire Healthcare Holdings LLC
4 ("Wilshire"). As defendants knew and intended, this contract was a
5 sham intended to conceal the illegal kickback payments to Mitts for
6 the referral of Medicare and Medi-Cal patients.

7 12. At the time Sabaratnam executed the sham contract with
8 Metropolitan and throughout the time period of the scheme, Mitts
9 operated a facility called the "Assessment Center," also known as 7th
10 Street Christian Day Center, located at 431 East Seventh Street, Los
11 Angeles, California, in the area commonly known as Skid Row. As
12 defendants knew, the Assessment Center was not a medical clinic, but
13 rather was a site that Mitts used for the purpose of recruiting
14 homeless Medicare and Medi-Cal beneficiaries for referral to local
15 hospitals, including City of Angels. As defendants knew, Mitts and
16 others working for him, including Massey, would recruit Medicare and
17 Medi-Cal beneficiaries for inpatient hospital stays. As defendants
18 knew, the recruited beneficiaries would be taken to the Assessment
19 Center where the staff, who were not medical professionals, would
20 confirm their status as Medicare or Medi-Cal beneficiaries, provide
21 symptoms to justify hospitalization, and arrange for the
22 beneficiaries' transportation to City of Angels.

23 13. After a few days, the homeless beneficiaries would be
24 discharged from the hospital and the defendants, among others at City
25 of Angels, knowingly would submit, or cause to be submitted, to
26 Medicare and Medi-Cal, false and fraudulent claims for reimbursement
27 for services rendered to these beneficiaries.
28

1 14. In furtherance of the conspiracy to defraud Medicare and
2 Medi-Cal described above, and pursuant to the sham contracts, Mitts
3 submitted monthly invoices to defendants, or others at City of Angels,
4 for payment for the patients he referred to City of Angels. These
5 invoices were accompanied by false monthly "work reports" designed,
6 as defendants knew and intended, to conceal the fact that payments
7 were being made for patient referrals.

8 15. After confirming which of the patients listed by Mitts had
9 been admitted to the hospital, defendants would then reimburse Mitts
10 for his referrals by making checks payable to companies owned and
11 controlled by Mitts, including Metropolitan and Wilshire.

12 16. In October 2006, defendants entered into a separate kickback
13 arrangement with Massey, who previously had been working for Mitts.
14 As part of this arrangement, Massey formed a company called Rolls-
15 Cartier LLC. Defendants paid Massey, or caused Massey to be paid, for
16 the referral of Medicare and Medi-Cal beneficiaries typically living
17 on Skid Row to City of Angels by having checks issued to Rolls-Cartier
18 LLC. This separate kickback arrangement with Massey continued until
19 March 2007.

20 Defendants' False Claims and False Statements, Kickback Payments, and
21 Impact on Medicare and Medi-Cal

22 17. During the course of their kickback scheme, defendants paid
23 approximately \$486,382 in illegal remuneration to induce patient
24 referrals to City of Angels, \$416,382 to Mitts and \$70,000 to Massey.

25 18. Pursuant to the scheme, between August 20, 2004 and June 14,
26 2007, defendants submitted, or caused to be submitted, 447 false
27 claims for non-reimbursable hospital stays and services provided to
28

1 156 Medicare beneficiaries. Medicare paid Intercare \$2,772,403 for
2 these claims.

3 19. Pursuant to the scheme, between August 20, 2004 and June 14,
4 2007, defendants submitted, or caused to be submitted, 589 false
5 claims for non-reimbursable hospital stays and services provided to
6 223 Medi-Cal beneficiaries. Medi-Cal paid Intercare \$1,336,376 for
7 these claims. Fifty percent of the Medi-Cal payments to Intercare,
8 \$668,188, was funded by the federal government and the other 50%,
9 \$668,188 was funded by the State of California.

10 20. In total, Medicare and Medi-Cal paid Intercare \$4,108,779
11 for hospital stays and services provided to the beneficiaries referred
12 to City of Angels by Mitts and Massey as a result of the payment of
13 kickbacks.

14 21. Each of the 1036 claims that defendants submitted to
15 Medicare and Medi-Cal was false because it resulted from, and was
16 tainted and rendered false by the payment of, a kickback, in violation
17 of the Anti-Kickback Statute.

18 22. Defendants had actual knowledge that each claim that
19 Intercare submitted to Medicare or Medi-Cal associated with these
20 "paid-for-patients" would constitute a false or fraudulent claim for
21 payment in violation of the False Claims Act, 31 U.S.C. §§ 3729,
22 because defendants had actual knowledge that payment of claims by
23 Medicare and Medi-Cal is conditioned upon the claims and the
24 underlying transactions complying with the Anti-Kickback Statute.

25 **Judgment**

26 23. Based on the conduct described above, judgment in favor
27 of the United States against defendants, jointly and severally, on
28 the United States' federal False Claims Act allegations contained

1 in the Complaint in the amount of \$8,457,769, together with post-
2 judgment interest at the legal rate in effect on the date of the
3 entry of judgment pursuant to 28 U.S.C. § 1961(b), as amended,
4 shall be and hereby is ordered and entered.

5 24. Based on the conduct described above, judgment in favor
6 of the State of California against defendants, jointly and
7 severally, on the State of California's False Claims Act
8 allegations contained in the Complaint in the amount of \$1,542,231,
9 together with post-judgment interest at the legal rate in effect on
10 the date of the entry of judgment pursuant to California Code of
11 Civil Procedure § 685.010, shall be and hereby is ordered and
12 entered.

13 25. The Court shall retain jurisdiction over this action for
14 the purpose of enforcing this Judgment.

15 26. Simultaneous to the execution of this Consent Judgment,
16 defendants are signing Stipulations of Nondischargeability with
17 respect to this Consent Judgment, which the United States and the
18 State of California will file in any bankruptcy case, attached
19 hereto as Exhibit 1. In addition, defendants agree to sign, and
20 the United States and the State of California will file in any
21 bankruptcy case, revised Stipulations of Nondischargeability with
22 respect to this Consent Judgment to accurately reflect the caption
23 of the bankruptcy case in which the Stipulation of
24 Nondischargeability will be filed.


25 27. If and when the full amount of the Judgment in favor of
26 the United States has been paid, the United States shall prepare
27 and file a Satisfaction of Judgment with the Clerk of the United
28 States District Court for the Central District of California and,

1 if any lien has been recorded, shall provide defendants with a
2 Release of Lien Under Abstract of Judgment.

3 28. If and when the full amount of the Judgment in favor of
4 the State of California has been paid, the State of California
5 shall prepare and file a Satisfaction of Judgment with the Clerk of
6 the United States District Court for the Central District of
7 California and, if any lien has been recorded, shall provide
8 defendants with a Release of Lien Under Abstract of Judgment.

9
10 IT IS SO ORDERED.

11 DATED: 1/14/10


UNITED STATES DISTRICT JUDGE

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14 APPROVED AS TO FORM AND CONTENT:

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17 THE UNITED STATES OF AMERICA

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19 TONY WEST
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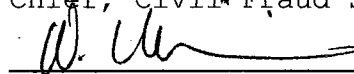
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24 Attorneys for Plaintiff
United States of America

25 DATED: Aug 24, 2009

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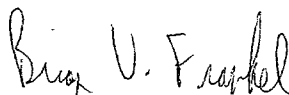
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7 DATED: 24, 2009

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15 Attorneys for Plaintiff
The State of California

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